THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.2095 OF 2007

DATED 22nd MARCH, 2007

BETWEEN

Thummala Rama Kotaiah

… Petitioner

AND

The Government of Andhra Pradesh, Irrigation & Command Area Development Department, rep.by its Executive Engineer-cum-River Conservator, Krishna Canal, Krishna Central Division, Vijayawada and others.

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.2095 OF 2007

ORDER:

The petitioner statedly is owner of land admeasuring Acs.37.40 in survey No.213 and land admeasuring Acs.7.13 in survey No.200 situated at Mulapadu Gram Panchayat of Ibrahimpatnam Mandal of Krishna District. He also obtained pattadar pass books/title deeds (PPBs/TDs) from the Mandal Revenue Officer, Ibrahimpatnam. He alleges that third respondent started using the petitioner's land for transportation of sand through lorries, tractors from Mulapadu sand reach in Krishna River to other places. The petitioner raised objection. The third respondent produced a copy of the proceedings, dated 05.12.2006, granting leasehold rights to him. The petitioner then approached second respondent requesting for a copy of the plan showing the sand reach. It was not furnished. Petitioner contends that as per tender condition No.21, the lessee has to use notified ramps/routes and he cannot use the private land for the purpose of transporting the sand. Therefore, he filed instant writ petition seeking a direction to respondents 1 and 2 to fix the boundaries of Krishna River bed between Mulapadu sand reach and private land to prevent the third respondent from using the petitioner's land from transporting the sand.

At the stage of admission itself, learned Assistant Government Pleader for Panchayat Raj obtained instructions from the District Panchayat Officer, the second respondent herein. Based on the instructions, he submits that the lease in favour of third respondent was confirmed by proceedings, dated 05.12.2006, as he became highest bidder with Rs.1,25,99,999.88 ps. He also submits that as per the

instructions received on 06.02.2007, as the third respondent did not fulfil other conditions as per A.P.Minor Mineral Concession Rules, 1966, as amended by G.O.Ms.No.1, I&C Department, dated 01.01.2001, work order was not issued. He also submits that when the auction was conducted earlier, no complaints were made, and therefore, the second respondent was under the impression that the auction purchaser was using the authorized land. It is not disputed that the successful bidder has to use only authorised path and no law permits such person to use the private land as a pathway. He, however, submits that if any patta land is used by the auction purchaser and sand quarry lessee, it should be with the permission of the petitioner only, but the respondents have no say in the matter.

Having regard to the submissions made by the learned Assistant Government Pleader, this Court is of considered opinion that if the lease is already confirmed in favour of third respondent and work orders are being issued, only authorised pathway has to be used for transporting the sand. If there is any encroachment by the third respondent for the purpose of transporting sand, it must always be open to the petitioner to seek appropriate redressal to seek the Court.

These observations would be sufficient redressal for the petitioner. The writ petition is accordingly disposed of. No costs.

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(V.V.S.RAO,J)

22.03.2007.

Note: Issue CC by 27.03.2007.

(By order)

pln